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10 **UNITED STATES DISTRICT COURT**
11 **CENTRAL DISTRICT OF CALIFORNIA, SOUTHERN DIVISION**
12

13 **BIANCA ABOYTES,**

14 **Plaintiff,**

15 **v.**

16 **CHIPOTLE MEXICAN GRILL, INC.,**
17 **and DOES 1 through 75, inclusive,**

18 **Defendants.**

Case No. 8:17-cv-01419-JVS-KES

**STIPULATED PROTECTIVE
ORDER**

[Discovery Document: Referred to
Magistrate Judge Karen E. Scott]

1 **1. A. PURPOSES AND LIMITATIONS**

2 Discovery in this action is likely to involve production of confidential,
3 proprietary, or private information for which special protection from public
4 disclosure and from use for any purpose other than prosecuting this litigation may
5 be warranted. Accordingly, the parties hereby stipulate to and petition the Court to
6 enter the following Stipulated Protective Order. The parties acknowledge that this
7 Order does not confer blanket protections on all disclosures or responses to
8 discovery and that the protection it affords from public disclosure and use extends
9 only to the limited information or items that are entitled to confidential treatment
10 under the applicable legal principles. The parties further acknowledge, as set forth
11 in Section 12.3, below, that this Stipulated Protective Order does not entitle them to
12 file confidential information under seal; Civil Local Rule 79-5 sets forth the
13 procedures that must be followed and the standards that will be applied when a party
14 seeks permission from the court to file material under seal.

15 **B. GOOD CAUSE STATEMENT**

16 This action is likely to involve trade secrets and other valuable commercial,
17 financial, technical and/or proprietary information for which special protection from
18 public disclosure and from use for any purpose other than prosecution of this action
19 is warranted. Such confidential and proprietary materials and information consist of,
20 among other things, confidential business or financial information, information
21 regarding Defendant's confidential business practices related to the operations of its
22 restaurants, or other confidential commercial information (including information
23 implicating privacy rights of third parties), information otherwise generally
24 unavailable to the public, or which may be privileged or otherwise protected from
25 disclosure under state or federal statutes, court rules, case decisions, or common
26 law. Accordingly, to expedite the flow of information, to facilitate the prompt
27 resolution of disputes over confidentiality of discovery materials, to adequately
28 protect information the parties are entitled to keep confidential, to ensure that the

1 parties are permitted reasonable necessary uses of such material in preparation for
2 and in the conduct of trial, to address their handling at the end of the litigation, and
3 serve the ends of justice, a protective order for such information is justified in this
4 matter. It is the intent of the parties that information will not be designated as
5 confidential for tactical reasons and that nothing be so designated without a good
6 faith belief that it has been maintained in a confidential, non-public manner, and
7 there is good cause why it should not be part of the public record of this case.

8 **2. DEFINITIONS**

9 2.1 **Action:** The instant action: *Bianca Aboytes v. Chipotle Mexican Grill,*
10 *Inc.*, United States District Court, Central District of California, Case No. 8:17-cv-
11 01419-JVS-KES.

12 2.2 **Challenging Party:** a Party or Non-Party that challenges the
13 designation of information or items under this Order.

14 2.3 **"CONFIDENTIAL" Information or Items:** information (regardless of
15 how it is generated, stored or maintained) or tangible things that qualify for
16 protection under Federal Rule of Civil Procedure 26(c), and as specified above in
17 the Good Cause Statement.

18 2.4 **Counsel:** Outside Counsel of Record and House Counsel (as well as
19 their support staff).

20 2.5 **Designating Party:** a Party or Non-Party that designates information or
21 items that it produces in disclosures or in responses to discovery as
22 "CONFIDENTIAL."

23 2.6 **Disclosure or Discovery Material:** all items or information, regardless
24 of the medium or manner in which it is generated, stored, or maintained (including,
25 among other things, testimony, transcripts, and tangible things), that are produced or
26 generated in disclosures or responses to discovery in this matter.

27 2.7 **Expert:** a person with specialized knowledge or experience in a matter
28 pertinent to the litigation who has been retained by a Party or its counsel to serve as

1 an expert witness or as a consultant in this Action.

2 2.8 House Counsel: attorneys who are employees of a party to this Action.
3 House Counsel does not include Outside Counsel of Record or any other outside
4 counsel.

5 2.9 Non-Party: any natural person, partnership, corporation, association, or
6 other legal entity not named as a Party to this action.

7 2.10 Outside Counsel of Record: attorneys who are not employees of a
8 party to this Action but are retained to represent or advise a party to this Action and
9 have appeared in this Action on behalf of that party or are affiliated with a law firm
10 which has appeared on behalf of that party, and includes support staff.

11 2.11 Party: any party to this Action, including all of its officers, directors,
12 employees, consultants, retained experts, and Outside Counsel of Record (and their
13 support staffs).

14 2.12 Producing Party: a Party or Non-Party that produces Disclosure or
15 Discovery Material in this Action.

16 2.13 Professional Vendors: persons or entities that provide litigation
17 support services (e.g., photocopying, videotaping, translating, preparing exhibits or
18 demonstrations, and organizing, storing, or retrieving data in any form or medium)
19 and their employees and subcontractors.

20 2.14 Protected Material: any Disclosure or Discovery Material that is
21 designated as "CONFIDENTIAL."

22 2.15 Receiving Party: a Party that receives Disclosure or Discovery
23 Material from a Producing Party.

24 **3. SCOPE**

25 The protections conferred by this Stipulation and Order cover not only
26 Protected Material (as defined above), but also (1) any information copied or
27 extracted from Protected Material; (2) all copies, excerpts, summaries, or
28 compilations of Protected Material; and (3) any testimony, conversations, or

1 presentations by Parties or their Counsel that might reveal Protected Material.

2 Any use of Protected Material at trial shall be governed by the orders of the
3 trial judge. This Order does not govern the use of Protected Material at trial.

4 **4. DURATION**

5 Even after final disposition of this litigation, the confidentiality obligations
6 imposed by this Order shall remain in effect until a Designating Party agrees
7 otherwise in writing or a court order otherwise directs. Final disposition shall be
8 deemed to be the later of (1) dismissal of all claims and defenses in this Action, with
9 or without prejudice; and (2) final judgment herein after the completion and
10 exhaustion of all appeals, rehearings, remands, trials, or reviews of this Action,
11 including the time limits for filing any motions or applications for extension of time
12 pursuant to applicable law.

13 **5. DESIGNATING PROTECTED MATERIAL**

14 **5.1 Exercise of Restraint and Care in Designating Material for Protection.**

15 Each Party or Non-Party that designates information or items for protection under
16 this Order must take care to limit any such designation to specific material that
17 qualifies under the appropriate standards. The Designating Party must designate for
18 protection only those parts of material, documents, items, or oral or written
19 communications that qualify so that other portions of the material, documents,
20 items, or communications for which protection is not warranted are not swept
21 unjustifiably within the ambit of this Order.

22 Mass, indiscriminate, or routinized designations are prohibited. Designations
23 that are shown to be clearly unjustified or that have been made for an improper
24 purpose (*e.g.*, to unnecessarily encumber the case development process or to impose
25 unnecessary expenses and burdens on other parties) may expose the Designating
26 Party to sanctions.

27 If it comes to a Designating Party's attention that information or items that it
28 designated for protection do not qualify for protection, that Designating Party must

1 promptly notify all other Parties that it is withdrawing the inapplicable designation.

2 5.2 Manner and Timing of Designations. Except as otherwise provided in
3 this Order (*see, e.g.*, second paragraph of Section 5.2(a) below), or as otherwise
4 stipulated or ordered, Disclosure or Discovery Material that qualifies for protection
5 under this Order must be clearly so designated before the material is disclosed or
6 produced.

7 Designation in conformity with this Order requires:

8 (a) for information in documentary form (*e.g.*, paper or electronic
9 documents, but excluding transcripts of depositions), that the Producing Party affix
10 at a minimum, the legend “CONFIDENTIAL” (hereinafter “CONFIDENTIAL
11 legend”), to each page that contains protected material. If only a portion or portions
12 of the material on a page qualifies for protection, the Producing Party also must
13 clearly identify the protected portion(s) (*e.g.*, by making appropriate markings in the
14 margins).

15 A Party or Non-Party that makes original documents available for
16 inspection need not designate them for protection until after the inspecting Party has
17 indicated which documents it would like copied and produced. During the
18 inspection and before the designation, all of the material made available for
19 inspection shall be deemed “CONFIDENTIAL.” After the inspecting Party has
20 identified the documents it wants copied and produced, the Producing Party must
21 determine which documents, or portions thereof, qualify for protection under this
22 Order. Then, before producing the specified documents, the Producing Party must
23 affix the “CONFIDENTIAL legend” to each page that contains Protected Material.
24 If only a portion or portions of the material on a page qualifies for protection, the
25 Producing Party also must clearly identify the protected portion(s) (*e.g.*, by making
26 appropriate markings in the margins).

27 (b) for testimony given in depositions that the Designating Party
28 identify the Disclosure or Discovery Material on the record, before the close of the

1 deposition all protected testimony.

2 (c) for information produced in some form other than documentary
3 and for any other tangible items, that the Producing Party affix in a prominent place
4 on the exterior of the container or containers in which the information is stored the
5 legend "CONFIDENTIAL." If only a portion or portions of the information
6 warrants protection, the Producing Party, to the extent practicable, shall identify the
7 protected portion(s).

8 5.3 Inadvertent Failures to Designate. If timely corrected, an inadvertent
9 failure to designate qualified information or items does not, standing alone, waive
10 the Designating Party's right to secure protection under this Order for such material.
11 Upon timely correction of a designation, the Receiving Party must make reasonable
12 efforts to assure that the material is treated in accordance with the provisions of this
13 Order.

14 **6. CHALLENGING CONFIDENTIALITY DESIGNATIONS**

15 6.1 Timing of Challenges. Any Party or Non-Party may challenge a
16 designation of confidentiality at any time that is consistent with the Court's
17 Scheduling Order.

18 6.2 Meet and Confer. The Challenging Party shall initiate the dispute
19 resolution process under Local Rule 37.1 et seq.

20 6.3 The burden of persuasion in any such challenge proceeding shall be on
21 the Designating Party. Frivolous challenges, and those made for an improper
22 purpose (*e.g.*, to harass or impose unnecessary expenses and burdens on other
23 parties) may expose the Challenging Party to sanctions. Unless the Designating
24 Party has waived or withdrawn the confidentiality designation, all parties shall
25 continue to afford the material in question the level of protection to which it is
26 entitled under the Producing Party's designation until the Court rules on the
27 challenge.
28

1 **7. ACCESS TO AND USE OF PROTECTED MATERIAL**

2 **7.1 Basic Principles.** A Receiving Party may use Protected Material that is
3 disclosed or produced by another Party or by a Non-Party in connection with this
4 Action only for prosecuting, defending, or attempting to settle this Action. Such
5 Protected Material may be disclosed only to the categories of persons and under the
6 conditions described in this Order. When the Action has been terminated, a
7 Receiving Party must comply with the provisions of Section 13 below (FINAL
8 DISPOSITION).

9 Protected Material must be stored and maintained by a Receiving Party at a
10 location and in a secure manner that ensures that access is limited to the persons
11 authorized under this Order.

12 **7.2 Disclosure of "CONFIDENTIAL" Information or Items.** Unless
13 otherwise ordered by the court or permitted in writing by the Designating Party, a
14 Receiving Party may disclose any information or item designated
15 "CONFIDENTIAL" only to:

16 (a) the Receiving Party's Outside Counsel of Record in this Action,
17 as well as employees of said Outside Counsel of Record to whom it is reasonably
18 necessary to disclose the information for this Action;

19 (b) the officers, directors, and employees (including House Counsel)
20 of the Receiving Party to whom disclosure is reasonably necessary for this Action;

21 (c) Experts (as defined in this Order) of the Receiving Party to
22 whom disclosure is reasonably necessary for this Action and who have signed the
23 "Acknowledgment and Agreement to Be Bound" (Exhibit A);

24 (d) the court and its personnel;

25 (e) court reporters and their staff;

26 (f) professional jury or trial consultants, mock jurors, and
27 Professional Vendors to whom disclosure is reasonably necessary for this Action
28 and who have signed the "Acknowledgment and Agreement to Be Bound" (Exhibit

1 A);

2 (g) the author or recipient of a document containing the information
3 or a custodian or other person who otherwise possessed or knew the information;

4 (h) during their depositions, witnesses, and attorneys for witnesses,
5 in the Action to whom disclosure is reasonably necessary provided: (1) the
6 deposing party requests that the witness sign the "Acknowledgment and Agreement
7 to Be Bound" (Exhibit A); and (2) they will not be permitted to keep any
8 confidential information unless they sign the "Acknowledgment and Agreement to
9 Be Bound" (Exhibit A), unless otherwise agreed by the Designating Party or ordered
10 by the court. Pages of transcribed deposition testimony or exhibits to depositions
11 that reveal Protected Material may be separately bound by the court reporter and
12 may not be disclosed to anyone except as permitted under this Stipulated Protective
13 Order; and

14 (i) any mediator or settlement officer, and their supporting
15 personnel, mutually agreed upon by any of the parties engaged in settlement
16 discussions.

17 **8. PROTECTED MATERIAL SUBPOENAED OR ORDERED**
18 **PRODUCED IN OTHER LITIGATION**

19 If a Party is served with a subpoena or a court order issued in other litigation
20 that compels disclosure of any information or items designated in this Action as
21 "CONFIDENTIAL," that Party must:

22 (a) promptly notify in writing the Designating Party. Such
23 notification shall include a copy of the subpoena or court order;

24 (b) promptly notify in writing the party who caused the subpoena or
25 order to issue in the other litigation that some or all of the material covered by the
26 subpoena or order is subject to this Protective Order. Such notification shall include
27 a copy of this Stipulated Protective Order; and

28 (c) cooperate with respect to all reasonable procedures sought to be

1 pursued by the Designating Party whose Protected Material may be affected.

2 If the Designating Party timely seeks a protective order, the Party served with
3 the subpoena or court order shall not produce any information designated in this
4 action as "CONFIDENTIAL" before a determination by the court from which the
5 subpoena or order issued, unless the Party has obtained the Designating Party's
6 permission. The Designating Party shall bear the burden and expense of seeking
7 protection in that court of its confidential material and nothing in these provisions
8 should be construed as authorizing or encouraging a Receiving Party in this Action
9 to disobey a lawful directive from another court.

10 **9. A NON-PARTY'S PROTECTED MATERIAL SOUGHT TO BE**
11 **PRODUCED IN THIS LITIGATION**

12 (a) The terms of this Order are applicable to information produced
13 by a Non-Party in this Action and designated as "CONFIDENTIAL." Such
14 information produced by Non-Parties in connection with this litigation is protected
15 by the remedies and relief provided by this Order. Nothing in these provisions
16 should be construed as prohibiting a Non-Party from seeking additional protections.

17 (b) In the event that a Party is required, by a valid discovery request,
18 to produce a Non-Party's confidential information in its possession, and the Party is
19 subject to an agreement with the Non-Party not to produce the Non-Party's
20 confidential information, then the Party shall:

21 1. promptly notify in writing the Requesting Party and the
22 Non-Party that some or all of the information requested is subject to a
23 confidentiality agreement with a Non-Party;

24 2. promptly provide the Non-Party with a copy of the
25 Stipulated Protective Order in this Action, the relevant discovery request(s), and a
26 reasonably specific description of the information requested; and

27 3. make the information requested available for inspection by
28 the Non-Party, if requested.

1 (c) If a Non-Party fails to seek a protective order from this court
2 within 14 days of receiving the notice and accompanying information, the Receiving
3 Party may produce the Non-Party's confidential information responsive to the
4 discovery request. If the Non-Party's confidential information responsive to the
5 discovery request. If the Non-Party timely seeks a protective order, the Receiving
6 Party shall not produce any information in its possession or control that is subject to
7 the confidentiality agreement with the Non-Party before a determination by the
8 court. Absent a court order to the contrary, the Non-Party shall bear the burden and
9 expense of seeking protection in this court of its Protected Material.

10 **10. UNAUTHORIZED DISCLOSURE OF PROTECTED**
11 **MATERIAL**

12 If a Receiving Party learns that, by inadvertence or otherwise, it has disclosed
13 Protected Material to any person or in any circumstance not authorized under this
14 Stipulated Protective Order, the Receiving Party must immediately (a) notify in
15 writing the Designating Party of the unauthorized disclosures, (b) use its best efforts
16 to retrieve all unauthorized copies of the Protected Material, (c) inform the person or
17 persons to whom unauthorized disclosures were made of all the terms of this Order,
18 and (d) request such person or persons to execute the "Acknowledgment and
19 Agreement to Be Bound" that is attached hereto as Exhibit A.

20 **11. INADVERTENT PRODUCTION OF PRIVILEGED OR**
21 **OTHERWISE PROTECTED MATERIAL**

22 When a Producing Party gives notice to Receiving Parties that certain
23 inadvertently produced material is subject to a claim of privilege or other protection,
24 the obligations of the Receiving Parties are those set forth in Federal Rule of Civil
25 Procedure 26(b)(5)(B). This provision is not intended to modify whatever
26 procedure may be established in an e-discovery order that provides for production
27 without prior privilege review. Pursuant to Federal Rule of Evidence 502(d) and (e),
28 insofar as the parties reach an agreement on the effect of disclosure of a

1 communication or information covered by the attorney-client privilege or work
2 product protection, the parties may incorporate their agreement in the stipulated
3 protective order submitted to the court.

4 **12. MISCELLANEOUS**

5 **12.1 Right to Further Relief.** Nothing in this Order abridges the right of any
6 person to seek its modification by the Court in the future.

7 **12.2 Right to Assert Other Objections.** By stipulating to the entry of this
8 Protective Order no Party waives any right it otherwise would have to object to
9 disclosing or producing any information or item on any ground not addressed in this
10 Stipulated Protective Order. Similarly, no Party waives any right to object on any
11 ground to use in evidence of any of the material covered by this Protective Order.

12 **12.3 Filing Protected Material.** A Party that seeks to file under seal any
13 Protected Material must comply with Civil Local Rule 79-5. Protected Material
14 may only be filed under seal pursuant to a court order authorizing the sealing of the
15 specific Protected Material at issue. If a Party's request to file Protected Material
16 under seal is denied by the court, then the Receiving Party may file the information
17 in the public record unless otherwise instructed by the court.

18 **13. FINAL DISPOSITION**

19 After the final disposition of this Action, as defined in paragraph 4, within 60
20 days of a written request by the Designating Party, each Receiving Party must return
21 all Protected Material to the Producing Party or destroy such material. As used in
22 this subdivision, "all Protected Material" includes all copies, abstracts, compilations,
23 summaries, and any other format reproducing or capturing any of the Protected
24 Material. Whether the Protected Material is returned or destroyed, the Receiving
25 Party must submit a written certification to the Producing Party (and, if not the same
26 person or entity, to the Designating Party) by the 60 day deadline that (1) identifies
27 (by category, where appropriate) all the Protected Material that was returned or
28 destroyed and (2) affirms that the Receiving Party has not retained any copies,

1 abstracts, compilations, summaries or any other format reproducing or capturing any
2 of the Protected Material. Notwithstanding this provision, Counsel are entitled to
3 retain an archival copy of all pleadings, motion papers, trial, deposition, and hearing
4 transcripts, legal memoranda, correspondence, deposition and trial exhibits, expert
5 reports, attorney work product, and consultant and expert work product, even if such
6 materials contain Protected Material. Any such archival copies that contain or
7 constitute Protected Material remain subject to this Protective Order as set forth in
8 Section 4 (DURATION).

9 **14. VIOLATION**

10 Any violation of this Order may be punished by any and all appropriate
11 measures including, without limitation, contempt proceedings and/or monetary
12 sanctions.

13 IT IS SO STIPULATED, THROUGH COUNSEL OF RECORD.

14 DATED: October 18, 2018

MESSNER REEVES LLP



16 Nima Darouian

17 Allan B. Claybon

18 Attorneys for Defendant Chipotle
19 Mexican Grill, Inc.
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1 DATED: October 11, 2018

EASTON AND EASTON LLP

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5 W. Douglas Easton

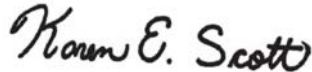
6 Matthew D. Easton

7 Travis Easton

8 Attorneys for Plaintiff Bianca Aboytes

9
10
11 FOR GOOD CAUSE SHOWN, IT IS SO ORDERED

12
13 DATED: October 23, 2018

14 

15
16 Karen E. Scott

17 United States Magistrate Judge

1 **EXHIBIT A**

2 **ACKNOWLEDGMENT AND AGREEMENT TO BE BOUND**

3 I, _____ [print or type full name], of

4 _____
5 [print or type full address], declare under penalty of perjury that I have read in its
6 entirety and understand the Stipulated Protective Order that was issued by the
7 United States District Court for the Central District of California on

8 _____ in the case of *Bianca Aboytes v. Chipotle Mexican Grill, Inc.*,
9 United States District Court, Central District of California, Case No. 8:17-cv-01419-
10 JVS-KES. I agree to comply with and to be bound by all the terms of this Stipulated
11 Protective Order and I understand and acknowledge that failure to so comply could
12 expose me to sanctions and punishment in the nature of contempt. I solemnly
13 promise that I will not disclose in any manner any information or item that is subject
14 to this Stipulated Protective Order to any person or entity except in strict compliance
15 with the provisions of this Order.

16 I further agree to submit to the jurisdiction of the United States District Court
17 for the Central District of California for the purpose of enforcing the terms of this
18 Protective Order, even if such enforcement proceedings occur after termination of
19 this action. I hereby appoint _____ [print or type full
20 name] of _____ [print or type full address
21 and telephone number] as my California agent for service of process in connection
22 with this action or any proceedings related to enforcement of this Stipulated
23 Protective Order.

24 Date: _____

25 City and State where sworn and signed: _____

26 Printed name: _____

27 Signature: _____